

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DONALD J. KIRCKOF and
ROCHESTER LAPIDARY
JEWELERS, INC.,

CIVIL NO. 03-3380 (JRT/JSM)

Plaintiffs,

ORDER

v.

WILLIAM A. BENOIT and
BENOIT, KEITH, SHEEHAN &
ASSOCIATES, LLP,

Defendants.

Damon L. Ward, **WARD & WARD**, 2520 Park Avenue South, Minneapolis, Minnesota 55404 for plaintiffs.

Christian A. Preus, Gary W. Hoch and Jon R. Russell, **MEAGHER & GEER, PLLP**, 33 South Sixth Street, Suite 4200, Minneapolis, Minnesota 55402, for defendants.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated June 7, 2005. No objections having been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Defendants' Motion to Enforce Settlement Agreement [Docket No. 41] is
GRANTED;

2. Plaintiffs' Motion to Modify Pretrial Scheduling Order [Docket No. 55] is **DENIED**; and

3. Plaintiffs' Motion to Strike Defendants' Reply Memorandum and Second Affidavit of Jon R. Russel [Docket No. 63] is **DENIED**.

Dated: June 28, 2005
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge